

MISSOURI COURT OF APPEALS WESTERN DISTRICT

AG PROCESSING, INC.,

Appellant,

v.

**KCP&L GREATER MISSOURI OPERATIONS COMPANY,
and
MISSOURI PUBLIC SERVICE COMMISSION,**

Respondents,

TRIUMPH FOODS, LLC,

Intervenor-Respondent.

DOCKET NUMBER WD76353

Date: March 25, 2014

Appeal from:
Public Service Commission

Appellate Judges:
Division Two: Gary D. Witt, Presiding Judge, Lisa White Hardwick and Alok Ahuja,
Judges

Attorneys:
Stuart W. Conrad, Jefferson City, MO; C Edward Peterson and Jeremiah D. Finnegan,
Kansas City, MO, for appellant.
Lewis R. Mills, St. Louis, Office of Public Counsel
Lowell D. Pearson and Robert R. Harding, Jefferson City, MO for Triumph Foods; Karl
Zobrist, Roger W. Steiner and Lisa A. Littell Smith, KCMO, James M. Fischer, Jefferson
City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

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Public Service Commission

Before Division Two: Gary D. Witt, Presiding Judge, Lisa White Hardwick and Alok Ahuja, Judges

AG Processing, Inc. ("AGP") appeals from the Missouri Public Service Commission's ("Commission") Order Regarding Remand in which it: (1) vacated a prior report and order finding that KCP&L Greater Missouri Operations Company ("KCP&L") had imprudently operated its hedging program and, as a result, was required to pay AGP and other customers refunds; (2) ordered a temporary rate adjustment to return to KCP&L the amount of the refunds; and (3) ordered that a separate complaint case that AGP had initiated against KCP&L involving different allegations of imprudence be consolidated with the present complaint case. AGP contends the Order Regarding Remand is unlawful for several reasons.

APPEAL DISMISSED.

Division Two holds:

The Commission's Order Regarding Remand is not a terminal and complete resolution of the two complaint cases it concerns; therefore, it is not a final and appealable administrative order. The Order Regarding Remand neither addressed nor resolved the allegations of imprudence that AGP raised in the complaint cases. The Order Regarding Remand merely explained how, in light of this court's reversal and remand of one of the complaint cases, the Commission planned to proceed going forward to bring both complaint cases to a final resolution. The Commission's inclusion of an order directing the customers to return refunds to KCP&L did not transform the Order Regarding Remand into a final order, as the Commission's decision to return the refunds is subject to recall or reconsideration.

Opinion by: Lisa White Hardwick, Judge

March 24, 2014

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